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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,291	07/02/2003	Steven M. Akkala	009801-0004	6705
20572	7590	08/24/2005	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,291

Applicant(s)

AKKALA ET AL.

Examiner

Chi Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 15-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

This Office action is in response to the Applicant's election to Group I (claims 1-14) with traverse and withdrawn claims 15-25 filed on 6/13/2005 is acknowledged. Since the Applicant does not give any reasons with regard to the traversal election, therefore the restriction still deemed proper and is made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 1 and 8, the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Since claims 2-7 and 9-13 are depending upon claims 1, and 8, respectively, thus also rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 4-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 4,534,132).

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In regard claims 1, 8, 9, Smith teaches pit and floor openings comprising a frame 15, a lid 46 having an underside and a topside, the lid rotatably attached to the frame for moving between closed and open positions, a spring support/spring receptor 84 selectively connected to the underside of the lid, and at least one spring 73A connected to the spring support or the spring receptor, the spring including a clip arm 81A and inherently included a spring arm on the other end of the spring, wherein the clip arm is attached to the lid; wherein the spring biases the lid toward the open position (figure 4).

In regard claims 4, 11, Smith teaches the claimed invention as stated wherein there is at least one rib 110 attached to the underside of the lid and having an aperture 112 therein to receive the clip arm 81A (figure 4).

In regard claims 5, 12, Smith teaches the claimed invention as stated wherein a lug 95 extends inwardly from the frame.

In regard claims 6, 13, Smith teaches the claimed invention as stated wherein further including a safety arm 115 that is attached to the hatch, and movable from a storage position to a locking position (figure 4).

In regard claims 7, 14, Smith teaches the claimed invention as stated wherein further including a latch 67 connected to the underside of the lid (figure 2).

In regard claim 10, Smith teaches the claimed invention as stated wherein the spring receptor or spring support 84 extends from a rib 110 attached to the underside of the lid (figure 4).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 4,534,132).

In regard claims 1, 8 Smith teaches pit and floor openings comprising a frame 15, a lid 46 having an underside and a topside, the lid rotatably attached to the frame for moving between closed and open positions, a spring support/spring receptor 74A, and at least one spring 73A connected to the spring support or the spring receptor, the spring including a clip arm 81A and obviously including a spring arm on the other end of the spring, wherein the clip arm is attached to the lid; wherein the spring biases the lid toward the open position.

Smith teaches the claimed invention as stated except for the specifically the spring support selectively connected to the underside of the lid and spring arm makes contact with the frame. The examiner takes an Official Notice the fact that the spring support is attached within the frame and indirectly contacted to the frame by brackets 75A, 76A, 98 would have been obvious functional equivalent to the applicant's spring support, which connected underside of the lid and the spring arm contact with the frame such as biasing the lid in open and close positions in relation to the opening.

In regard claims 2, 3 Smith teaches the claimed invention as stated, wherein further including at least three brackets 75A, 76A, 98, which serve as three rings to

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slideably receive the spring support 74A. However, Smith does not specifically teach the rings are located underside of the lid. As set forth above, although the spring support taught by Smith connected on the frame as well as the rings, the examiner takes an Official Notice the fact that the two/three rings located on the underside of the lid would have been obvious functional equivalent (see above reason).

In regard claims 4, 11 Smith teaches the claimed invention as stated, wherein there is at least one rib 110 attached to the underside of the lid, and having an aperture 112 therein to receive the clip arm 81A.

In regard claims 5, 12, Smith teaches the claimed invention as stated, wherein a lug 95 extends inwardly from the frame.

In regard claims 6, 13 Smith teaches the claimed invention as stated, wherein further including a safety arm 115 that is attach to the hatch, and movable from a storage position to a locking position to prevent the lid from being closed (figure 4).

In regard claims 7, 14, Smith teaches the claimed invention as stated, wherein further including a latch 67 connected to the underside of the lid (figure 2).

In regard claim 9, Smith teaches the claimed invention as stated, wherein the spring 73A is slideably connected to the spring receptor 74A.

In regard claim 10, Smith teaches the claimed invention as stated except for the spring receptor or spring support extends from a rib attached to the underside of the rib. As set forth, although the spring support or spring receptor is located or connected to the frame taught by Smith, the examiner takes an Official Notice the fact that the spring support or spring receptor located in the frame would have been obvious functional

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equivalent to the spring support or spring receptor located underside of the rib as taught by the applicant such as biasing the lid for closing and opening positions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Joyce, Petersen, Lamperti, Cauduro, Hess, Chain, Culling, Boyd, Goulding, Bradford, Hirose, Wahlstedt, and McKernan teach hatch and opening mechanism.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

8/16/2005

CN
CQN


BRIAN KACHENS
PRIMARY EXAMINER 8/16/05